LORD OCHILTREE'S COLONY

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THE Island of Cape Breton, as might be expected from its situation facing the old world, is entitled to a prominent place in annals of the discovery and settlement of North America. It is now well agreed that this is the "prima tierra vista" of Cabot, who on a June morning of 1497 saw its rocky headlands and thereby laid the foundation of the English claim to a share in the newly discovered continent. At a very early date it was the site of a Portuguese colony, abandoned long before De Monts and Champlain raised the flag of France at Port Royal. There is good reason to believe that the Scottish settlement at Port aux Baleines, on its southeastern coast, was the first attempt at settlement by British people in what is now the Dominion of Canada, although in most accounts this priority is given to Alexander's Port Royal colony.

It was not till more than a century had passed after Cabot's landfall, that Britain—using the name as inclusive of the two kingdoms then recently united under one sovereign—first sought to make good its claim founded thereupon to the northern part of the continent. The first act was due to colonial initiative. In 1613, while sailing north on a fishing cruise, Samuel Argal, a young colonial of Virginia, came upon the French in the act of founding a settlement at Mount Desert on the New England coast. Though the mother countries were at peace, their vague and overlapping claims in the new world then, as always when their armed forces met in the disputed territory, were sufficient excuse for a quarrel. Argal promptly destroyed the new settlement and returned to Virginia, taking some of the settlers with him as prisoners. Probably disturbed by the southerly encroachment of the French, the Governor of Virginia fitted out an expedition under the command of Argal to oust them from Port Royal, whither they had returned three years before under Poutrincourt, formerly lieutenant of De Monts. When Argal arrived at Port Royal, Poutrincourt was absent in France, and the French garrison under the command of his son Biencourt, being in no position to withstand the invader, scattered to the surrounding forests. Argal erased all marks of French sovereignty, burned the settlement and returned to Virginia, leaving Port Royal a waste.

In 1620 the territory now comprising the Maritime Provinces and part of Quebec was included in New England in a grant to Sir Fernando Gorges and his associates under the name of "The Council for planting, ruling and governing New England." During the negotiations for this charter or subsequent to its issue, the grantees were brought into contact with Sir William Alexander of Menstrie, one of the band of Scotsmen who—to the disgust of the English courtiers—had followed their royal master from Scotland, and who originated the English tradition of the needy Scot always ready to take any available position of profit—a tradition which persisted down to the days of Johnson and Smollett. Alexander like his sovereign was a poet and philosopher of sorts, and, probably none the less on that account, enjoyed the royal favour to a very high degree, receiving successive promotions to high office and high rank in the peerage from James and his successor Charles I. He has had the misfortune of sharing the ridicule which has fallen upon James I., but seems to have been a man of solid attainments and great imagination, with a sincere desire for the advancement of the honour of his country. When he was first approached by Sir Fernando Gorges and his associates, their proposal was that he should join them in the promotion of New England; but he was too patriotic a Scot to consent. Let me quote his own words: "I shew them that my countrimen would never adventure in such an Enterprise, unless it were as there was a New France, a New Spain and a New England, that they might likewise have a New Scotland."

Accordingly he applied to the king for a grant of the lands lying between New England and Newfoundland, which Gorges and his associates were willing to surrender. The king wrote to his Privy Council for Scotland a letter of August 5th, 1621, setting forth the advantages to the kingdom of Scotland of such a grant, and stating his pleasure that one should issue to Alexander of the lands mentioned, "to be holden of us from our Kingdome of Scotland as a part thereof." The charter was prepared in due course, and passed the Great Seal on the 29th September, 1621. By it were granted to Sir William Alexander, his heirs and assigns, lands comprising the present Maritime Provinces, part of the present State of Maine, and that part of Quebec between the St. Lawrence and the northern boundary of what is now the province of New Brunswick, "which said lands," so runs the charter, "shall for all time to come rejoice in the name of Nova Scotia in America." The charter gave Alexander not only territorial rights in the lands granted, with the ownership of minerals, quarries, timber and rights of fishery, but created him therein lieutenant of the king with the privilege of

coining money, raising armed forces, making laws, holding courts of justiciary and admiralty, and exercising other regal rights and powers.

Sir William lost no time in acting under his charter, but for some time was without success in founding any settlement in his new dominion. In 1622 he sent out a ship, which got no further than the neighbourhood of Cape Breton, when it was forced by storms to recross the Atlantic. In 1623 an expedition explored the southwestern coast of Nova Scotia, and brought back glowing reports of the fertility of the country and its suitability for settlement. At this stage Sir William found that his financial resources were at an end, and that his attempts at colonization had plunged him into debt to the extent of six thousand pounds. He again applied to his royal master, and James again showed his readiness to help.

Recourse was had to an expedient similar to one which had a short time before proved successful in the colonization of Ulster. It was proposed to found a new order of baronets, to be known as the Knights Baronets of Nova Scotia. In return for the dignity conferred upon them and for land grants in Nova Scotia, the baronets were to contribute in cash towards compensating Sir William for his losses as well as to meet the cost of future colonization, and were to be bound to settle colonists upon the lands granted to them. For the purpose of these grants, Sir William was to surrender portions of his dominion, which were then to be granted to the new baronets. To do away with the necessity for the baronets making the long and dangerous trip across the Atlantic to take sasine of their baronies, Edinburgh was for that purpose made part of Nova Scotia and the baronets were to take sasine there. James I. died before the details of the scheme were worked out; but his successor, Charles I., on his accession took up the matter vigorously, and soon proclamation was made at the market cross at Edinburgh that applications for the new honour would be received, and that His Majesty's loyal Scottish subjects of gentle birth were expected to come forward. In spite of the royal interest in the project and the plain intimations that His Majesty was much concerned that it should succeed—intimations which soon developed into unequivocal commands to individual gentlemen to apply for baronetcies upon pain of the royal displeasure if they should neglect to do so—the applications were few, and those who did apply and were made baronets did not show much keenness in carrying out their obligations. Soon that part of the payment to be made by the baronets which was to be applied to reimbursing Sir William Alexander was

remitted; and after a while the title did not carry with it any grant of land, but developed merely into an additional honour which could be sold to replenish the royal exchequer.

But some years before Sir William's necessities had led to the creation of Knights Baronets of Nova Scotia he had alienated part of his territory. On November 8th, 1621, a charter issued to Sir Robert Gordon of Lochinvar and his son of the same name, granting to them the Island of Cape Breton, which—under the name of New Galloway—was to be held by them under Sir William Alexander as overlord. In 1625 Sir Robert Gordon, following the example of Alexander, published "Encouragement for such as shall have intention to be undertakers in the new plantation of Cape Breton, now New Galloway, in America," which he dedicated to Sir William Alexander and the Knights Baronets of Nova Scotia, undertakers in the plantation of New Scotland. In the prefatory letter to this document he set out the three motives which actuated him in his scheme of colonization as follows: "first for the glorie of my great and mighty GOD; next the service of His M. my dread sovereigne and my native countrie; and last the particular weale and utilitie of my selfe and such as shall be generouslie disposed adventurers with me." After describing the climate and resources of the island, he sets out what the adventurers, ministers of the Worde of God, gentlemen, artisans and craftsmen are to receive, and their feudal duties to himself.

It is not clear whether, for some years, any colonists took advantage of the terms offered by Sir Robert Gordon and settled in New Galloway. On May 5th, 1626, a licence was granted him to despatch a ship to America; but this was probably in connection with a later grant made to him as a knight baronet of Nova Scotia, for he had become such on May First, 1626. Gordon died in November, 1627. In 1629 some sixty persons sailed from Scotland under the leadership of James Stewart of Killeith, fourth Baron Ochiltree. From the fact that Ochiltree was not a knight baronet of Nova Scotia, and had been associated with Sir Robert Gordon in Scotland, it seems likely that his colony was under the New Galloway grant of 1621. Lord Ochiltree was the son of James Stewart, sometime Earl of Arran, one of the most turbulent of the many turbulent figures in Scotland during the stormy days of Queen Mary and of the regency. This James Stewart had been appointed guardian of the inbecile Earl of Arran, and had so managed matters that his charge had been set aside and he himself made Earl. Like so many of his contemporaries, he met his death by assassination in the course of a family feud. Ochiltree's family were strong

supporters of the kirk, and, in view of the later settlement of Cape Breton to so large an extent by Scottish Presbyterians, it is interesting to note that the leader of the first colony was a nephew of the wife of John Knox.

Ochiltree and his colonists landed at Port aux Baleines, now called Baleine Cove, on July 1st, 1629. With them were Sir William Alexander, the younger, who, as lieutenant of his father, was in command, and La Tour, probably Claude. On their arrival Sir William, with Lord Ochiltree and La Tour as his assistants, held a court of admiralty and condemned a Portuguese barque which they found fishing in the vicinity. Sir William then departed for Port Royal, leaving Ochiltree to take steps to settle his colony. Some land was cleared, and a fort or fortified camp built. That Lord Ochiltree's colony was no mere garrison or fishing expedition is shown by the accounts of it given by Ochiltree himself and by Capt. Ferrar, a member of his party. Lord Ochiltree in a memorial to James I, referring to his settlers, says "whereof ane greatt number of them wer old men and wemen with chyld and young children att thair breasts." He also mentions the wives of two or three English gentlemen. Capt. Ferrar says that he agreed with Lord Ochiltree to go out with his wife and family to plant at Cape Breton.

Lord Ochiltree's colony was not long left in possession of the land which it had occupied. On June 26th of the year of Ochiltree's arrival at Cape Breton, there had sailed from France, under a commission from the Company of New France, one Captain Daniel who, it is interesting to note from his own account, had learned before he left France that peace had been made between the English and French kings. After a brush with an English ship on the Grand Banks, Daniel arrived at Grand Cibou (St. Ann's) on the 28th August, and sent a boat's crew along the coast to reconnoitre. These men learned from the captain of a French fishing vessel of the arrival of Ochiltree, the building of the fort and his seizure of a fishing vessel, probably the one condemned by Sir William Alexander, as mentioned above. On hearing their report, Daniel set out with a force of fifty-five men to capture the fort. The stories of the action as told by Daniel and Ochiltree differ to a degree greater than can be accounted for by the natural bias of the respective narrators. Which of them, if either, tells the unvarnished truth, it is of course now impossible to tell, though it is fair to say that Ochiltree's account is corroborated by Captain Ferrar. Daniel tells of a spirited attack in the face of the resistance of the colonists, of forcing the gates of the fort and of capturing Ochiltree, sword in hand. Ochiltree states that upon his hearing that the strangers

were French, with whom the British were then at peace, he permitted them to enter the fort, and that the French then seized upon the settlers unarmed and expelled them from the fort. Both accounts agree that the British were taken to Grand Cibou where some of them were forced to work at erecting fortifications, and that they were then taken to Europe, the majority being landed at Falmouth and the rest, including Ochiltree, taken to France. Ochiltree adds details of the cruelty practiced upon the prisoners, as a result of which many of them, especially of the children, died upon the voyage. Two years later Ochiltree was released and allowed to return to England. He petitioned the king for the redress of his wrongs, declaring that his loss in connection with the founding of the colony and its destruction by the French exceeded £20,000. Apparently his appeal was fruitless.

Whether or not Ochiltree's colony preceded the Scottish colony at Port Royal depends upon the date of the founding of the latter, as the date of the founding of the colony at Port aux Baleines is definitely established from both French and British sources. It is fair to say that there is some evidence on each side of the question, but the weight of evidence seems to be in favour of the priority of the Cape Breton colony. The following references favour the view that the Port Royal colony was founded prior to 1629. On March 26th, 1628, there was granted to Sir William Alexander (the younger) a pass for four ships "to be set out towards Newfoundland, the River of Canada and New Scotland for settling of colonists in these parts and other their lawful affairs." The inference from the license would be that colonists went out to Port Royal in that year. On April 23rd of the same year a commission issued from the Lords of the Privy Council for Scotland to Sherriffs, Justices of the Peace, Provosts and Baillies to take and try all those, who, having contracted with Sir William Alexander to go to the plantation of New Scotland, had abandoned the service and refused to perform their contract. Finally, there is a letter to the king, dated 18th November, 1628, from some of the persons "interested in New Scotland and Canada" protesting against the making of new grants "of the said lands of Canada and of the trade thereof" to be holden under the Crown of England, for which the writers state suit was being made to the king by reason of the voyage of Captain Kirk. In this letter it is stated that, by virtue of grants of land made to them by the king or by Sir William Alexander, the grantees had "already adventured sums of money for setting forth a colony." It is also stated that Sir William Alexander had sent out his son with a colony in the year then past.

The evidence in favour of fixing the date of the founding of the Port Royal colony in 1629 and subsequent to the date of the founding of the colony in Cape Breton is more definite and of greater weight. "Sir William Alexander's Information touching his Plantation at Cape Breton and Port Reall" contained in the Egerton MSS. in the British Museum, a transcription of which is in the Archives at Ottawa, contains the following passages:

> The said Sr. William resolving to plant in that yeare sent out his sonne Sr. William Alexander this last spring with a colonie to inhabit the same, who arriving first at Cap-Britton.....
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> Thereafter having left the Lo: Oghletree with some 60 or 70 English, who went with him to inhabite there, at Cap-Britton, the said Sr. William went from thence directly to Port-royall wch he found (as it had been a long tyme before) abandoned and without any signe that ever people had been there where he seated himself and his companie according to the warrant granted unto him by his Ma^{tie} of purpose to people that part.

Captain Daniel in his Relation gives the priority to Port aux Baleines. In the report which he received from his boat's crew, it was stated that shortly after the seizure of the Portuguese ship Ochiltree had sent his two largest ships with the captured vessel to found a settlement at Port Royal. Allowing for the fact that Daniel knew nothing of the younger Alexander and considered Ochiltree the leader of the two bands of colonists, his account agrees with Alexander's. A letter dated 7th November, 1629, from Charles I to his Scottish council contains the following recital:

> Sir William Alexander, our Lieutenant of New Scotland, who these many years bygone has been at great charges for the discovery thereof, hath now in the end settled a colony there, where his son, Sir William, is now resident.

In a memoir of the French Ambassador to Charles I, dated 1st February, 1630, on the subject of the restoration of Cape Breton and Port Royal to France, the Ambassador bases his argument for the restoration of Port Royal on the fact that it had been occupied only since the "23rd of April last," that is after the making of peace between the two Crowns. In this connection it will be remembered that the war which had been carried on for some years between Britain and France was ended by the Treaty of Suza, which Daniel in his Relation states was announced at Che de Bois in France on the 18th May, 1629. Charles I, writing to his Privy Council for Scotland, says that it is alleged by France that Port Royal should be restored as it had been taken since the peace, and he again refers

to this French argument in a letter to Sir Isaac Wake, the British Ambassador to France. Charles in the last mentioned letter is arguing for the payment by France of the balance of the portion of his Queen, Henrietta Maria, which was being withheld. The following are extracts from the letter:

> What we chiefly understand to be put in balance, yf not in contract against the portion money, is the rendition of Quebec in Canada, ...and the retyring from Port Royal.....
> Trew it is that one of these places was taken and the plantation was made in the other after the peace; and in that regard (so all other differences may be accommodated) wee have formerly consented and still continue our purpose and resolution that the one, that is Quebec, shall be restored, and from the other such of our subjects as are there planted shall retyre leaving those parts in the same state they were before the peace.

In the reasons alleged for the retention of Port Royal in a memorial to the king from the Scottish adventurers, dated 9th September, 1630, it is admitted that Port Royal was colonized after the peace, though they argued that it should not be restored because it had been abandoned by the French and therefore had not been taken from them. In a letter to Sir William Alexander, (the younger), dated 3rd May, 1630, Charles writes as if he had recently received reports of Alexander's arrival at Port Royal and of the founding of the colony there.

In view of the evidence, it would seem that while preparations were made to colonize Port Royal in 1627 or 1628, nothing was done until Kirk had cleared the sea of the French fleets, and that the settlement was actually made in 1629 after Ochiltree's colony had been begun.

The destruction of his settlement, with the attendant financial loss, was not the last or worst misfortune to befall Lord Ochiltree. After his return to England in 1631, he reported to some of the king's household details which had been told him by Donald, Lord Rea, of a plot to capture the king and overturn the government. Unfortunately for himself, he enlarged upon the information given him so as to implicate as ringleaders in the plot the Marquis of Hamilton and other noblemen, who were his personal enemies. An old Scottish statute was invoked against him, and he was sent to Edinburgh for trial before the Justice-General and assessors appointed by the Privy Council for Scotland. This statute was passed in the reign of James I of Scotland, and provided, as set out in Lord Ochiltree's "Dittay," or Indictment, "That all leasing-

makers and tellers of them, whilk may engender discord betwixt the King and his people, wherever they may be gotten, shall be challenged by them that power has, and tyne life and goods to the King." The trial, under the name of "The Trial of Lord Ochiltree," is reported at great length in Howell's *State Trials*, Volume III, page 426. Ochiltree apparently tried to evade the issue, and founded his defence upon the duty of the subject to disclose plots against the king, attempting to ignore his own additions to the reports he had received. He was found guilty, and sentenced to perpetual imprisonment. Pursuant to this sentence, he was imprisoned in Blackness Castle and remained there until released by Cromwell, twenty years later. It is said that after Ochiltree's release he earned his living by the practice of medicine.

With the destruction of Ochiltree's colony, the connection of Britain with the Island of Cape Breton ceased for over a century. Charles I's anxiety to receive the dowry of his queen caused the island to be left in the undisputed possession of the French and enabled them, in the following century, to fortify Louisburg to be a menace to the British colonies until finally ceded after two great sieges. Ochiltree's colony very soon ended in disaster; but by reason of its Scottish origin it will always be interesting as the first British settlement in what was destined to be the most intensely Scottish portion of Canada.